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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

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TOMBSTONE EXPLORATION CORP.,

Plaintiff,

v.

EUROGAS, INC., et al.,

Defendants.

**MEMORANDUM DECISION AND  
ORDER DENYING PLAINTIFF'S  
MOTION TO RECONSIDER**

Case No. 2:15-cv-00195-DN

District Judge David Nuffer

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Plaintiff Tombstone Exploration Corp. (“Tombstone”) filed a Motion to Reconsider Factual Findings and Conclusions of Law (the “Motion”),<sup>1</sup> asking that its damages for breach of contract be calculated using a reliance, rather than an expectancy, measure of recovery.<sup>1</sup> Based on the Motion, the testimony and other evidence presented at trial, and the state of the record in this case, and for good cause appearing, the following decision is rendered:

1. Tombstone’s proposed reliance measure of damages is based on the value of 69,000,000 shares of stock in Tombstone transferred to ZB Capital, AG.<sup>2</sup>

2. At trial, Alan M. Brown testified that Tombstone stock sold for approximately \$0.02 per share, but he did not provide necessary information regarding the volume of shares sold at that price.

3. Brown’s testimony regarding the value of Tombstone’s stock is unreliable and unpersuasive, specifically in relation to the 69,000,000 shares transferred to ZB Capital.

4. The large volume of Tombstone stock transferred to ZB Capital would not have sold at the price Brown stated. The thinly traded market for Tombstone shares would not have

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<sup>1</sup> [Docket no. 123](#), filed March 23, 2018.

<sup>2</sup> *See id.*

absorbed the sale of the 69,000,000 shares at whatever the market price or last trade was at that time. The sale of such a large block of shares would have resulted in all market makers pulling their bids, resulting in “no bid” for the shares.

5. The evidence preponderates that the \$100,000 that EuroGas paid to Tombstone for the 69,000,000 shares more than fully compensated Tombstone for these shares because, under the circumstances, they were not worth \$100,000.

6. Furthermore, the 69,000,000 shares that Tombstone transferred to ZB Capital in exchange for \$100,000 from EuroGas was treated as a severable transaction.

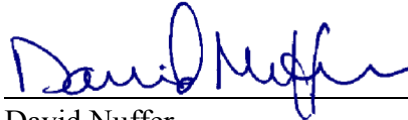
Based on these findings, Tombstone is not entitled to an award of reliance damages.

### **ORDER**

THEREFORE, IT IS HEREBY ORDERED that the Motion<sup>3</sup> is DENIED.

Signed November 19, 2018.

BY THE COURT:



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David Nuffer  
United States District Judge

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<sup>3</sup> [Docket no. 123](#), filed March 23, 2018.